



Fact Sheet

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FALSE ARGUMENTS FOR NONCOMPLIANCE WITH THE TAX LAWS

The Internal Revenue Service is concerned that taxpayers might be misled by improper suggestions that they are not required to file tax returns or pay taxes.

Since shortly after the federal income tax was enacted in 1913, some individuals and groups have encouraged others not to comply with the law. There have been unsuccessful challenges about the applicability of tax laws using a variety of arguments. There have been assertions that the 16th Amendment was not properly ratified, that the tax law was unconstitutional, did not apply to certain types of income, only applied to certain individuals, or violated one or more constitutional rights.

Despite the courts having consistently rejected these arguments, their promoters continue to expound them, even incurring penalties for bringing frivolous cases into court or for filing frivolous tax returns. They often present their arguments in a pseudo-legal format, luring unsuspecting people into participating in their schemes to evade taxes.

Constitution-Related Arguments

1. First Amendment. These arguments focus on using the Freedom of Religion clause of the First Amendment to reduce income tax liability. A common scheme calls for individual taxpayers to obtain minister's credentials and a church or religious order charter by mail for a fee. The individuals set up a new organization that purports to be a church, religious order, or other religious organization. They then take a "vow of poverty" and assign their assets and income to the new organization. But filtering money through a purported church to fraudulently claim charitable contribution deductions is illegal. The tax law affords benefits to churches and other religious organizations and to those who make gifts or contributions to these organizations. The law requires, however, that such organizations actually be operated for religious purposes and not for the private benefit of individuals.

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2. Fourth and Fifth Amendments. These arguments claim that filing an income tax return violates the Fourth Amendment right to privacy or the Fifth Amendment right against self-incrimination. However, the courts have consistently held that disclosure of routine financial information required on a tax return does not incriminate an individual or violate the right to privacy.
3. Sixteenth Amendment. These arguments claim that the constitutional amendment establishing the basis for income tax was never properly ratified. However, the courts have held that none of the points presented undermine the fact that the Sixteenth Amendment was indeed ratified in 1913.

Arguments Related to the Internal Revenue Code

These false arguments claim that:

- there is no Internal Revenue Code that imposes taxes;
- only “individuals” are required to pay taxes;
- Code Section 861 limits taxable income to certain sources which don’t apply to most U.S. citizens; or
- the government can assess taxes only against people who file returns.

The tax law is found in Title 26 of the United States Code. Section 6012 of the Code makes clear that only people whose income falls below a certain minimum level do not have to file returns. Sections 861 through 865 determine whether income is from a U.S. or foreign source – they do not in any way exclude income from taxation for a U.S. citizen or resident. Section 6201 of the Code states that the Secretary of the Treasury is required to make assessments “of all taxes imposed by this title [Title 26].”

Trust Arguments

These arguments claim that forming a trust to receive your income and hold your assets will allow you to reduce or eliminate your tax liability. In truth, establishing a trust, foreign or domestic, for the sole purpose of hiding your income and assets from taxation is illegal and will not absolve you of your tax liability.

More information is available from the “Summary of Abusive Trust Schemes,” prepared by the IRS Criminal Investigation Division. A copy is available via the Internet at www.ustreas.gov/irs/ci/factsheets/factsheets.htm.

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IRS Steps Against Noncompliance

The Internal Revenue Service has focused its efforts against noncompliance by adopting a multi-functional compliance approach:

- helping otherwise innocent taxpayers who have been misled by others to rejoin the system; and
- vigorously pursuing enforcement actions against those who continue to promote schemes or entice others to violate the law.

Regardless of the arguments used, they have two things in common:

- the arguments are consistently rejected by the courts, and
- the participants may face IRS enforcement action.

The IRS has one of the highest conviction rates in federal law enforcement. In addition to serving substantial prison sentences imposed by the courts, those convicted must also pay fines, taxes, civil penalties, and, frequently, court costs.

Additional information is available from IRS Publication 2105, "Why Do I Have to Pay Taxes?" It's available at www.ustreas.gov/irs/ci/factsheets/pub2105.pdf.

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